IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 17TH JULY 2007 / 26TH ASHADHA 1929

Bail Appl..No. 4330 of 2007()

CRIME NO.621 OF 2007 OF KOLLAM EAST POLICE STATION, KOLLAM

: PETITIONERS

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1. G.KRISHNAKUMAR, S/O GOPALAN.

2. GEETHA KRISHNAKUMAR, W/O KRISHNAKUMAR,
BOTH ARE RESIDING AT ASRAMAM, KOTTAKKAKAM WARD,
KOLLAM.

BY ADV. SRI.V.CHITAMBARESH
SRI.JIBU P THOMAS

RESPONDENTS:

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1. THE STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

2. THE SUB INSPECTOR OF POLICE,
KOLLAM EAST POLICE STATION, KOLLAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 17/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.4330 of 2007

Dated this the 17th day of July, 2007

ORDER

Application for anticipatory bail. The petitioners face allegations in a crime registered under Section 420 I.P.C. The crime has been registered on the basis of a private complaint filed by the defacto complainant before the Magistrate and referred by the learned Magistrate to the police under Section 156(3) Cr.P.C. Investigation is in progress. The petitioners apprehend imminent arrest. The crux of the allegations against the petitioners is that they entered into an agreement for sale of immovable property with the defacto complainant. An amount of Rs.7 lakhs has by now been received by way of advance towards the sale consideration. The document of sale has not been executed. The defacto complainant has come to know that there was a mortgage liability to a bank in respect of the property. That fact was suppressed from the defacto complainant. Deliberate and fraudulent misrepresentation was made to induce the complainant to part with cash. This in short is the allegations raised.

2. The learned counsel for the petitioners submits that the allegations are totally unjustified. Parties did contemplate the liability in the original agreement for sale. The original title deed even admittedly is with the bank. It is idle to assume that the defacto

complainant did not know of the liability created when the petitioner could not produce the original title deed. The learned counsel for the petitioners further submits that in subsequent supplemental agreement for extension of time, the liability has been specifically referred to and in spite of that further payments have been made towards the advance. In any view of the matter, it is not necessary to compel the petitioners to endure the undeserved trauma of arrest and detention. They are willing to co-operate with the investigation. Subject to appropriate terms and conditions, anticipatory bail may be granted to the petitioners, prays the learned counsel for the petitioners.

3. The learned Public Prosecutor does not seriously oppose the prayer. The learned Public Prosecutor only submits that appropriate conditions may be imposed, which shall ensure the interests of a fair, efficient and expeditious investigation.

4. I am satisfied, in the circumstances adverted to earlier, that the petitioners can be granted anticipatory bail. A more detailed reference to the facts in controversy does not appear to be necessary.

5. In the result, the Bail Application is, allowed. The following directions are issued under Section 438 Cr.P.C.

i) The petitioners shall appear before the learned Magistrate at 11 a.m on 24.07.2007. They shall be enlarged on regular bail on their executing a bond for Rs.50,000/- (Rupees Fifty thousand only)

each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate;

ii) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m and 4 p.m on 25.07.2007 & 26.07.2007 and thereafter between 10 a.m and 12 noon on all Mondays and Fridays for a period of two months. Subsequently the petitioners shall make themselves available for interrogation before the Investigating Officer as and when directed by the Investigating Officer in writing to do so ;

iii) If the petitioners do not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioners and deal with them in accordance with law as if those directions were not issued at all;

iv) If the petitioners were arrested prior to their surrender on 24.07.07 as directed in clause (1) above, they shall be released on their executing a bond for Rs.50,000/- (Rupees Fifty thousand only) without any sureties undertaking to appear before the learned Magistrate on 24.07.07.

(R.BASANT, JUDGE)

rtr/-